

## REMARKS

### **35 USC § 112, second paragraph rejection of claims 1 – 16, 21 and 22**

The examiner has rejected claims 1 – 16, 21 and 22 under § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. In particular, the examiner points out in claim 1 that, at lines 4 – 5, it is stated that a “growth medium containing an antibiotic, known to inhibit an operative enzyme of a bacterial biochemical pathway ...” is used but, at line 10, a clause states, “if the operative enzyme is not inhibited by the antibiotic, ...”.

### **Applicant's response**

Claim 1 has been amended to more clearly point out that which applicant considers the invention. The amendment is fully supported by the specification as a whole and in particular by pages 14 and 15.

## CONCLUSION

Based on the above amendments to the claims and remarks, applicant believes that the application is in condition for allowance and respectfully requests that it be passed to issue.

Applicant hereby requests three month extension of time to respond to this office action under 37 CFR § 1.136. The Commissioner is authorized to charge the fee due under 37 CFR 1.17 to Bingham McCutchen Deposit Account No. 50-2518, Docket No. 266/106, Billing Ref.: 24748-7238.

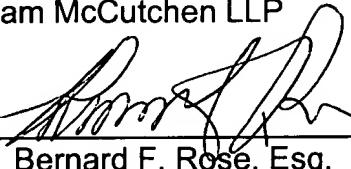
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Date: March 28, 2003

Respectfully submitted,

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